

# **Exhibit A**

Stateline

# Oregon Marijuana Surplus a Cautionary Tale for Other States

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Bud tenders help customers at Serra, a dispensary in Portland, Oregon. This year Oregon enacted legislation intended to address the surplus of marijuana in the state.

Richard Vogel/The Associated Press

Five years after Oregon legalized recreational marijuana, its lawmakers now are trying to rein in production, fearing the state's big weed surplus will tempt some licensed businesses to sell their products out of state or on the illegal market.

Such diversions could invite a crackdown from the federal government and cast a pall over the legal pot industry. Last year, the U.S. attorney for the District of Oregon put the state on notice when he announced that curbing interstate trafficking was his top cannabis law enforcement priority.

Licensed growers have spent thousands of dollars on compliance and don't want to risk their businesses by selling illegally, said Michael Getlin, founder of a 15,000-square-foot cannabis farm in Oregon City. "The flip side of that is, I get cold calls all the time from people out of state looking to go shopping," he said — often offering two or three times market price in Oregon.

Oregon's surplus, though legal, is something of a cautionary tale for other states as they try to manage marijuana supply and demand. Enough recreational cannabis sat on dispensary shelves, in warehouses and in processing plants this January to satisfy buyers for more than six years, according to a report from the Oregon Liquor Control Commission, the state agency that regulates recreational marijuana.

Like California, Oregon has a long history of illegal grows. And while some states, such as Colorado and Washington, limit the production licenses people can hold and the number of plants businesses can grow, Oregon has made it easy for people to harvest a lot of weed.

"They underestimated the number of people that would be willing to convert to the legal market or would want to participate in the legal market," said Beau Whitney, vice president and senior economist for New Frontier Data, a company based in Washington, D.C., that studies the cannabis industry.

To address the pot glut, Oregon this year enacted legislation that allows the regulators to stop issuing new production licenses when supply exceeds demand. The state also approved a measure that, with federal approval, would allow growers to sell their cannabis out of state.

Congressional bills that would legalize marijuana sales at the federal level have so far been unsuccessful. But two Democrats who represent Oregon in Congress, Sen. Ron Wyden and Rep. Earl Blumenauer, last month proposed legislation that would allow for interstate commerce between states with legal cannabis programs.

Oregon marijuana growers appear to have planted less cannabis this year and prices have ticked up, a sign that the market is correcting, said Adam Smith, founder and director of the Craft Cannabis Alliance, a nonprofit trade group based in Oregon.

Still, Smith said, "the fix is open markets." His group pushed for the Oregon interstate commerce bill and plans to lobby for similar legislation in California and beyond.

## Production Control

The Oregon cannabis glut has raised eyebrows among experts who study marijuana markets. “The biggest policy lesson you can take from this is: understand the existing cannabis market,” said Adam Orens, co-founder of the Marijuana Policy Group, a consulting outfit based in Denver.

His group helps states create an initial estimate of marijuana demand by looking at federal drug use surveys and conducting new surveys of state residents. Once legal sales are up and running, he said, plant tracking systems can help regulators follow market dynamics.

Many states limited marijuana production from the get-go. Washington state, for instance, issued production licenses only during a 30-day period in 2013 and allowed producers to license no more than three businesses each.

Marijuana prices have been dropping in recent years in Washington. But people in the industry disagree over whether that means there’s an oversupply problem and how to address it, said Brian Smith, communications director for the Washington State Liquor and Cannabis Board.

“We’re in a different boat than Oregon is,” he said. The regulatory agency hasn’t completed a supply and demand study yet, but it found in a recent report that most marijuana producers in Washington are planting in less than the total amount of space allowed under their licenses.

Colorado’s Department of Revenue issues production licenses in five tiers, from up to 1,800 plants to up to 13,800 plants. All cultivation licenses begin at the first tier. To move up a tier, growers must prove that they sold 85% of the crop they grew in the previous six months.

If cultivators can’t transfer enough product, officials may knock their license down to a lower tier, according to Shannon Gray, marijuana communications specialist for the Revenue Department.

In 2017, licensed growers in Colorado produced about 13% more marijuana than was sold that year, according to a report prepared for the Revenue Department by the Marijuana Policy Group and the Leeds School of Business at the University of Colorado, Boulder.

The report shows supply and demand are “effectively in equilibrium,” Gray said in an email.

Statewide production limits help keep supply and demand aligned, Orens said, as do local cultivation and sale limits and Colorado’s initial requirement that each company control production, processing and sales. “It’s not one specific thing, it’s all these things together,” he said.

Whitney at New Frontier Data said the decline in the price of retail marijuana comes not from oversupply but competition among businesses.

## 'The Emerald Region'

Oregon regulators' efforts to create a legal marijuana industry have been complicated by the long history of illegal grows in the area.

The Craft Cannabis Alliance's Smith calls Southern Oregon and Northern California "the emerald region," where long, dry growing seasons and cool nights create a perfect climate for growing marijuana outdoors. Prior to legalization, some illegal pot grown in Oregon was trafficked out of state, he said.

After Oregonians voted to allow marijuana sales in 2014, policymakers focused on bringing illegal businesses into the legal system, which is constrained by state borders.

"When the system was getting set up in Oregon — it wasn't really launching a brand new market, it was transitioning an underground, unregulated market into an above-ground, regulated one," said TJ Sheehy, a data analyst for the Oregon Liquor Control Commission's marijuana program.

To encourage illegal businesses to transition, Oregon policymakers at first didn't set a cap on licenses. Fees are low — starting at \$1,000 for a 2,500-square-foot outdoor grow or a 625-square-foot indoor grow — and since 2016, aspiring marijuana magnates haven't needed to live in the state to get a business license.

"If you want a license of a certain size, you can have it," Sheehy said. "So it's up to you to decide what makes market sense."

The Oregon commission has licensed 1,136 recreational growers.

Recreational growers aren't the only suppliers in the state. Only about half the marijuana Oregon adults consume is bought from licensed recreational dispensaries, with the remainder supplied by medical growers, home growers and the illegal market, Sheehy said.

He said there's no evidence that a lot of recreational legal marijuana is going out of state, though some businesses may be breaking the law to juice sales, such as by inflating their pot potency results.

A lot of the excess cannabis will be composted if producers can't find buyers, Sheehy said.

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The overproduction of marijuana in Oregon and illegal export of surplus product remains an important concern for the U.S. Attorney's Office, said Kevin Sonoff, its public affairs officer, in an email. Since last May, he added, the office has focused more on this issue — especially in Southern Oregon — and marijuana-related investigations, arrests and convictions have increased.

Prices for marijuana flower crashed in late 2017, sending many growers out of business. "At pretty much the drop of a hat, prices dropped by 50%," said Michael Johnson, chief operating officer of Siskiyou Sungrown, an 80,000-square-foot outdoor grow in Southern Oregon. "We ended up extracting a lot of that inventory, rather than selling it as smokable flower."

The emergency legislation that Democratic Gov. Kate Brown signed into law this year allows Oregon regulators to stop issuing producer licenses when supply exceeds demand.

The commission had paused processing of applications in 2018 because their workload exceeded staff capacity, said Mark Pettinger, the recreational marijuana spokesman for the Oregon Liquor Control Commission. The new legislation allowed the agency to extend its moratorium through 2021.

Legislators also laid the groundwork for interstate marijuana trade with a law allowing the governor to sign marijuana delivery agreements with other governors, once given the go-ahead from the federal government.

Oregon state Sen. Floyd Prozanski, a Democrat who sponsored the interstate commerce bill, floated similar legislation two years ago but it didn't pass the Senate. This time around, he said concern about overproduction helped propel his bill to the governor's desk.

Given Oregon's climate and history of marijuana production, pot could be the state's next signature export, Prozanski said. "I see cannabis to Oregon as Kentucky sees bourbon."

People close to the marijuana industry say that Oregon's oversupply problem may have peaked last year. "People went bankrupt," said Don Morse, former chairman of the Oregon Cannabis Business Council, a trade group. "And the market settles itself out."

"My farmer clients tell me that prices are going up, and same with my dispensary clients," said Amy Margolis, a lawyer based in Portland who specializes in the cannabis industry.

## Switching to Hemp

Now Oregon is experiencing a different cannabis gold rush: Morse said that many former marijuana business people — himself included — have gotten out of the saturated pot market

and switched to growing hemp, a type of cannabis that is legal nationwide and cannot produce a high.

Two years ago, before Congress in 2018 legalized hemp production and commercial sales, officials at the Oregon Department of Agriculture gave 246 farmers permission to plant some 3,300 acres of hemp. This year, they gave eight times as many farmers permission to plant some 53,000 acres. Many growers aim to harvest hemp for cannabidiol, or CBD, a trendy extract with alleged health benefits.

The agency doesn't track how many former marijuana growers are now growing hemp, according to Sunny Summers, the cannabis policy coordinator at the Department of Agriculture.

Hemp CBD is so new that analysts have yet to agree on its actual market size. But like many farmers, Morse is optimistic. His company next year will seed 1,100 acres of hemp in Oregon and California, after growing less than 10 acres this year.

"People say, 'Well you're going to experience an oversupply of hemp.' And maybe, maybe not, because you can ship over state lines," he said. "And you can compete in the national market."

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## AUTHORS



[Sophie Quinton](#)

Staff Writer  
Stateline



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